



### **JURISDICTION AND VENUE**

3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under patent laws of the United States, 35 U.S.C. §§ 1 *et seq.*

4. Venue is proper under 28 U.S.C. §§ 1391(c) and 1400(b). Upon information and belief, Picture Marketing has transacted business in this district, and has committed and/or acts of patent infringement in this district.

Picture Marketing is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to Picture Marketing's substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to companies and/or individuals in Texas and in this district.

### **INFRINGEMENT OF U.S. PATENT NO. 7,301, 558**

5. On November 27, 2007, United States Patent No. 7,301, 558 ("the '558 Patent"), was duly and legally issued for an invention entitled "Imaging System and Method". MTL was assigned the '558 patent and continues to hold all rights and interest in the '558 patent. A true and correct copy of the '558 Patent is attached hereto as Exhibit A.

6. Upon information and belief, Picture Marketing has infringed and continues to directly infringe one or more claim of the '558 Patent by making, having made, distributing, using, selling, and/or offering to sell products and/or services that satisfy each and every limitation of one or more claims of the '558 Patent. Such products and services include but are not limited to the FotoZap Application, the turn-key event photography

services offered via [www.picturemarketing.com](http://www.picturemarketing.com) and any related applications. Such products, applications and services are more fully described on the websites operated by the Defendant, including [www.picturemarketing.com](http://www.picturemarketing.com) and [www.fotozap.com](http://www.fotozap.com).

7. Picture Marketing's manufacture, sales, offers to sell, and/or importation of the accused products and/or services is unauthorized, without the permission of MTL, and constitutes infringement under 35 U.S.C. §271 for which it is directly liable.

8. Upon information and belief, Picture Marketing indirectly infringes one or more claims of the '558 Patent under 35 U.S.C. §271(b) and (c). Picture Marketing has had knowledge of the '558 Patent since at least as early as March 22, 2011 when MTL sent written notice notifying Picture Marketing of its infringement of the "558 patent. Picture Marketing has induced, caused, urged, encouraged, aided and abetted their direct and indirect customers to make, use, distribute, sell or offer for sale and/or import products and/or services which infringe the '558 Patent, and has contributed to the infringement of the '558 Patent by its customers who use the Fotozap application and services. Picture Marketing has done so by acts including but not limited to selling and supplying licenses and other components for use with their FotoZap application to their direct and indirect customers, intending that the FotoZap application be used in a way that would infringe the '558 Patent, marketing the infringing capabilities of such products and/or services, and providing instructions, components, technical support, and/or marketing support for such products and/or services.

9. Despite having full and complete knowledge of the '558 patent and its applicability to its products and services since at least March 22, 2011, Picture Marketing has proceeded to infringe the '558 patent without any attempt to take a license under the

'558 patent and without a good faith belief that the '558 patent is invalid or not infringed. Thus Picture Marketing's infringement of the '558 patent is willful and deliberate, entitling MTL to increased damages under 35 U.S.C. § 284 and to attorney's fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

**DEMAND FOR JURY TRIAL**

10. MTL demands a trial by jury on all issues.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Media Technologies Licensing, L.L.C., requests entry of judgment in its favor and against Picture Marketing as follows:

- A. Declaration that Picture Marketing has directly and indirectly infringed the '558 Patent;
- B. Awarding damages arising out of Picture Marketing's infringement of the '558 Patent, requiring Picture Marketing to pay MTL enhanced damages, costs, expenses, prejudgment and post-judgment interest, for Defendant's infringement of the '558 Patent, as provided under 35 U.S.C. § 284;
- C. An award of attorney's fees pursuant to 35 U.S.C. § 285 or as otherwise permitted by law;
- D. Issuance of a permanent injunction to cease immediately all infringing activities; and
- E. Any and all other relief to which the Court may deem MTL entitled.

Respectfully submitted,

A handwritten signature in black ink that reads "Carl Roth". The signature is written in a cursive, slightly stylized font. Below the signature is a horizontal line.

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